

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 273 – HB 381

February 8, 2010

SUMMARY OF AMENDMENT (013788): Deletes all language following the enacting clause. Requires all testimony, documents, and other information obtained by the Commissioner of Commerce and Insurance during an investigation of an insurance producer to be kept confidential and privileged. Authorizes the producer under investigation, or producer's counsel, to obtain a copy of any notice or other information provide to the Commissioner for investigation purposes. Grants the Commissioner inquisitorial and subpoena powers. Requires the Commissioner to provide the producer a copy of any complaint or inquisitorial order within 30 days of issuance. Requires the department to notify the producer that any statements provided could be used in the investigation and become evidence. Requires the producer to bear the cost of document production and requires the cost of investigation be borne by the department. Requires that any investigation be completed within three years of receipt of the complaint or entry of inquisitorial order. Prohibits investigation of actions occurring more than 10 years prior to the complaint receipt date. Requires any investigation that began prior to July 1, 2009, be completed by July 1, 2012. Authorizes the producer to avail himself or herself from discovery rights. Authorizes the Commissioner, upon completion of the investigation, to require the insurer to cease and desist from the violating action and pay a penalty of up to \$1,000 per violation, not to exceed an aggregate of \$100,000. Authorizes the Commissioner to suspend or revoke an insurer's license.

FISCAL IMPACT OF ORIGINAL BILL:

Decrease State Expenditures – Not Significant

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures – Not Significant

Assumption applied to amendment:

- Requiring all documents to be kept confidential and privileged will have no fiscal impact on the state.
- Providing copies to the insurance producer will increase state expenditures in an amount determined to be not significant.
- According to the Department, the Commissioner currently uses discretion in determining which complaints to investigate. This bill will codify the current process.

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- There are four investigators in the Department's Insurance and Special Investigations section who are responsible for investigation of complaints against insurance producers. These investigations are completed within an average of nine to twelve months.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "White".

James W. White, Executive Director

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